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Attorneys for Defendants, OCWEN LOAN SERVICING, LLC and ONEWEST BANK, FSB

UNITED STATES BANKRUPTCY COURT  
 EASTERN DISTRICT OF CALIFORNIA- SACRAMENTO DIVISION

In re:	)	Chapter: 13
	)	
GIL MARIANO RAPOSO and JOANNE	)	BK Case No.: 09-27153
CAROL RAPOSO,	)	Adv. Case No.: 15-02095
	)	
Debtors.	)	
	)	
GIL MARIANO RAPOSO and JOANNE	)	<b>DECLARATION OF OCWEN LOAN</b>
CAROL RAPOSO,	)	<b>SERVICING, LLC IN RESPONSE TO</b>
	)	<b>ORDER TO APPEAR REGARDING</b>
Plaintiffs,	)	<b>ATTORNEY REPRESENTATION</b>
	)	
vs.	)	Date: November 19, 2015
	)	Time: 1:30 p.m.
OCWEN LOAN SERVICING, LLC and	)	Courtroom: 33, Dept. E
ONEWEST BANK, FSB,	)	Location: 501 I Street
	)	Sacramento, CA 95814
Defendants.	)	
	)	
	)	
	)	
	)	
	)	

I, Kevin Flannigan, declare and state as follows:

1. I am a Senior Loan Analyst for Ocwen Financial Corporation, whose indirect subsidiary is Defendant, Ocwen Loan Servicing, LLC ("Ocwen"). In the regular performance of my job functions, I am familiar with and have access to the business records maintained by Ocwen for the purpose of servicing mortgage loans. These records (which include date

1 compilations, electronically imaged documents, and others) are made at or near the time of  
2 date by, or from information provided by persons with knowledge of the activity and  
3 transactions reflected in such records, and are kept in the court of business activity conducted  
4 regularly by Ocwen. It is the regular practice of Ocwen's mortgage servicing business to make  
5 and/or maintain these records including the records of prior servicers of the loans now serviced  
6 by Ocwen, including the Subject Loan at issue in this action (as defined below). Ocwen relies  
7 upon the accuracy of those records in conducting its business of servicing loans, including the  
8 Subject Loan at issue in this action.

9       2.       In my capacity as a Loan Analyst for Ocwen my duties include, amount other  
10 things, reviewing and interpreting Ocwen's servicing records, including those related to the  
11 Subject Loan and the property at issue in this action. I am a duly authorized custodian for these  
12 business records and am authorized to execute this Declaration on behalf of Ocwen. In  
13 connection with making this Declaration, I have personally examined these business records.  
14 The exhibits attached to this Declaration are true and correct copies of documents from  
15 Ocwen's records. I have personal knowledge of the facts set forth herein based on my review  
16 of these records and, if called as a witness, I could and would testify competently to these facts  
17 under oath.

18       3.       I submit this declaration in response to the Court's Order to Appear Regarding  
19 Attorney representation entered in the above-referenced adversary case.

20       4.       Ocwen's business records reflect that on April 16, 2009 Plaintiffs GIL  
21 MARIANO RAPOSO and JOANNE CAROL RAPOSO (hereinafter collectively referred to as  
22 "Plaintiffs") filed a petition under Chapter 13 of the Bankruptcy Code in the United States  
23 Bankruptcy Court for the Eastern District of California, Sacramento Division, as Case No. 09-  
24 27153 ("Bankruptcy Action"). A true and correct copy of the docket for the Bankruptcy Action  
25 is attached hereto as Exhibit 1.

26       5.       Ocwen's business records reflect that as of the date of the filing of the  
27 Bankruptcy Action, on or about April 16, 2009, Defendant ONEWEST BANK, FSB ("OWB")  
28 acted as the servicer of the Subject Loan for Deutsche Bank National Trust Company, as

1 Indenture Trustee for IndyMac Home Equity Mortgage Loan Asset-Backed Trust, Series 2006-  
2 H4 (hereinafter referred to as the “Investor”), which is a loan in the amount of \$51,000.00  
3 made to Indymac Bank, FSB by Plaintiffs (the “Subject Loan”) and was secured by a Deed of  
4 Trust (“Deed of Trust”) recorded on the subject property located at 9090 Locust Street, Elk  
5 Grove, CA 95624 in the Official Records for the County of Sacramento, on October 5, 2006, in  
6 Book 20061005, at Page 0967 (See Plaintiffs’ Adversary Complaint at ¶¶ 7 and 10). A true and  
7 correct copy of the Deed of Trust is attached hereto as Exhibit 2.

8           6.       Ocwen’s business records reflect that on or about June 13, 2013 OWB and  
9 Ocwen entered into an agreement (“Agreement”) wherein OWB agreed to to sell, transfer and  
10 assign its servicing rights regarding several loans, including the Subject Loan, to Ocwen.  
11 Pursuant to the Agreement, Ocwen began servicing the Subject Loan on or about December 1,  
12 2013. Pursuant to the Agreement, OCWEN was and is authorized to retain counsel to defend  
13 ONEWEST in any litigation concerning the Subject Loan, including the above-referenced  
14 adversary proceeding filed May 14, 2015 in the Eastern District of California, Sacrament  
15 Division, entitled Raposo v. Ocwen Loan Servicing, LLC et.al, commonly referred to as  
16 Adversary Case No. 15-02095 (“Adversary Action”).

17           7.       Ocwen’s business records reflect that on or about November 15, 2013, Ocwen  
18 sent correspondence to Plaintiffs notifying them that the servicing of the Subject Loan was  
19 being transferred from OWB to Ocwen effective December 1, 2013 (“Service Transfer  
20 Letter”). A true and correct copy of the Service Transfer Letter is attached hereto as Exhibit 3.

21           8.       Ocwen’s business records reflect that Ocwen has been designated as the  
22 servicer and attorney in fact for the current owner and holder of the Subject Loan, i.e. the  
23 Investor, Deutsche Bank National Trust Company, as Indenture Trustee for IndyMac Home  
24 Equity Mortgage Loan Asset-Backed Trust, Series 2006-H4. A true and correct copy of the  
25 Power of Attorney between Ocwen and the Investor is attached hereto as Exhibit 4.


26           9.       Ocwen’s business records reflect that on May 14, 2015 Plaintiffs filed an  
27 Adversary Action against OWB and Ocwen.  
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1           10.     Ocwen employs a "Managing Counsel" program whereby it has designated  
2 several law firms throughout the country to handle certain litigation matters that rise to the  
3 level of Ocwen's Legal Department. WFZ is one of Ocwen's Managing Counsel. Ocwen does  
4 not execute a retainer agreement as to each individual case referral to Managing Counsel.  
5 Instead, matters are referred to Managing Counsel through referrals that are uploaded into  
6 Ocwen's CounselLink case management system.

7           11.     Ocwen's business records reflect that on August 5, 2015, Ocwen's Legal  
8 Department retained WFZ to defend Ocwen and OWB in the Adversary Action by providing  
9 access to the referral via CounselLink case management system and by uploading an e-mail  
10 notification directly into the CounselLink case management system. The e-mail was not sent  
11 directly to WFZ; rather it was uploaded into the CounselLink case management system when  
12 WFZ was assigned this matter. A redacted copy of the referral e-mail which was uploaded into  
13 the CounselLink system by Hema Dhapola of Ocwen Financial Solutions, an agent of Ocwen  
14 Loan Servicing, LLC authorized to send referrals through the CounselLink System, is attached  
15 hereto as Exhibit 5.

16           12.     Ocwen's business records reflect that WFZ is the designated authorized counsel  
17 for Ocwen and OWB in the Adversary Action. Ocwen specifically consents to and authorized  
18 WFZ's representation of OWB and Ocwen in the Adversary Action.

19           I declare under the penalty of perjury of the laws of the United States of America that  
20 the foregoing is true and correct. Executed this 16<sup>th</sup> day of October 2015, at Houston, Texas.

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23 Kevin Flannigan, Declarant  
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